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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/059,729	01/29/2002	R. Andrew Bailey	12293:71	5364

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EXAMINER

COTTINGHAM, JOHN R

ART UNIT	PAPER NUMBER
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2116

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/059,729

Applicant(s)

BAILEY ET AL.

Examiner

John R. Cottingham

Art Unit

2116

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-15 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by McLaren et al. U.S. Patent 6,678,712. McLaren et al. shows all of the claimed subject matter of a method of replacing first operating system.

Regarding claim 1, a method of replacing a first operating system executing on a computer having a storage (col. 7, lines 35-50), the storage having at least first and second bootable regions (in the ram), wherein the first operating system was booted from the first bootable region, the method comprising the steps of: remotely re-booting (the is happens from anyone at a keyboard hooked up to the computer) the computer to boot a copy of the first operating system located on the second bootable region; removing the first operating system from the first bootable region; copying a second operating system onto the first bootable region (col. 10, lines 10-20); and remotely re-booting the computer to boot the second operating system from the first bootable region.

Regarding claim 2, wherein the second bootable region has first and second sub-regions (hard disk), wherein the copy of the first operating system is located in the first sub-region of the second bootable region and the second operating system is copied onto the first bootable region (RAM 58) from the second sub-region of the second bootable region.

Regarding claim 3, further including the step of delivering the copy of the first operating system and the second operating system to the computer. (col. 7, lines 35-45) (loading from the hard disk)

Regarding claim 4, wherein the second operating system is delivered to the computer in a compressed format. (it is inherent that OS's and software are compressed for faster through times).

Regarding claim 5, wherein the second operating system is delivered to the computer in a compressed format. (it is inherent that OS's and software are compressed for faster through times).

Regarding claim 6, the method further comprising the step of decompressing the copy of the first operating system prior to copying a second operating system onto the first bootable region.

Regarding claim 7, a method of replacing a first operating system executing on a server having first and second storage disks, wherein the first operating system is booted from the first storage disk (col. 7, lines 35-50), comprising the steps of: receiving, from a remote location, (i) a packed version of the first operating system and (ii) a packed version of a second operating system desired to be installed on the server

Art Unit: 2116

(it is inherent that OS's and software are compressed for faster through times); unpacking the first operating system onto a first storage partition of the second disk (it is inherent that OS's and software are compressed for faster through times); storing the packed version of the second operating system onto a second storage partition of the second disk (hard disk); remotely re-booting the server to boot the first operating system from the first storage partition of the second disk; removing the first operating system from the first disk (col. 9, lines 50-65); unpacking the second operating system onto a partition on the first disk (it is inherent that OS's and software are compressed for faster through times); and remotely re-booting the server to boot the second operating system from the partition on the first disk.

Regarding claim 8, wherein step remotely re-booting the server to boot the first operating system comprises: modifying a boot loader of the server to boot the first operating system from the first storage partition of the second disk.

Regarding claim 9, wherein step of remotely re-booting the server to boot the second operating system comprises: reconfiguring the boot loader to boot the second operating system from the partition on the first disk. (col. 9, lines 50-65)

Regarding claim 10, wherein the packed version of the first operating system is encrypted. (it is inherent that OS's and software are compressed for faster through times and encrypted)

Regarding claim 11, further comprising of decrypting the packed version prior to the step of: unpacking the first operating system onto a first storage partition.

Regarding claim 12, wherein the step of removing the first operating system from the first disk removes any previously used partitions on the first disk. (col. 9, lines 50-65)

Regarding claim 13, further comprising: preserving network configuration data used by the first operating system to enable the server executing the second operating system following the step of rebooting the server to operate under the second operating system to be reached at a network address used by the server executing the first operating system. (col. 9, lines 50-65)

Regarding claim 14, further comprising: preserving security data used to control access to the server executing the first operating system to enable the server executing the second operating system following step of rebooting the server to operate under the second operating system to be accessed using at least one security setting used by the server executing the first operating system. (col. 10, lines 10-45)

Regarding claim 15, wherein the packed versions of the first operating system and the second operating system are received over a content delivery network.

Regarding claim 18, in a content delivery network having a set of content servers for caching and serving content on behalf of participating content providers, a method of replacing a first operating system executing on a content server having first and second storage disks, wherein the first operating system is booted from the first storage disk (col. 7, lines 35-50), comprising the steps of: (a) delivering, over the content delivery network; (i) a packed version of the first operating system and (ii) a packed version of a second operating system desired to be installed on the content server; (b) unpacking the first operating system onto a first storage partition of the second disk; (c) storing the

Art Unit: 2116

packed version of the second operating system onto a second storage partition of the second disk; (col. 10, lines 10-45) (d) remotely re-booting the content server to boot the first operating system from the first storage partition of the second disk; (e) removing the first operating system from the first disk; (unpacking the second operating system onto a partition on the first disk; and (g) remotely re-booting the content server to boot the second operating system from the partition on the first disk. (It is inherent that software is used to compress packets of info so as to speed up the transfer of information).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over McLaren et al. U.S. Patent 6,678,712, and further in view of Wanatabe U.S. Patent 6,763,458.

Regarding claim 16, McLaren et al. does not specify which operating systems to use. However, Wanatabe teaches, (at [18]), the use of Windows or Linux as a operating systems to load and operate on a computer. It would have been a design choice to one of ordinary skill in the art to pick operating system for what ever use is needed.

Regarding claim 17, McLaren et al., as discussed above, does not specify being able to load 3 types of operating systems. However, Wanatabe teaches, a method of using three or more operating systems (at [43]) to meet the needs of the end client. It would have been within the level of one of ordinary skill in the art at the time the invention was made to use three or more operating systems to meet the clients needs to perform on multiple platforms.

Conclusion

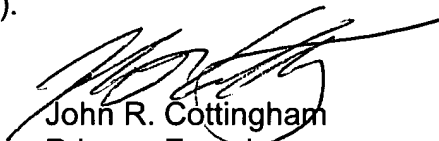
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nguyen et al. U.S. Patent 5,887,163 shows a similar invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John R. Cottingham whose telephone number is (571) 272-7079. The examiner can normally be reached on Monday - Thursday, alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on (571)272-3670. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2116

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John R. Cottingham
Primary Examiner
Art Unit 2116

jrc